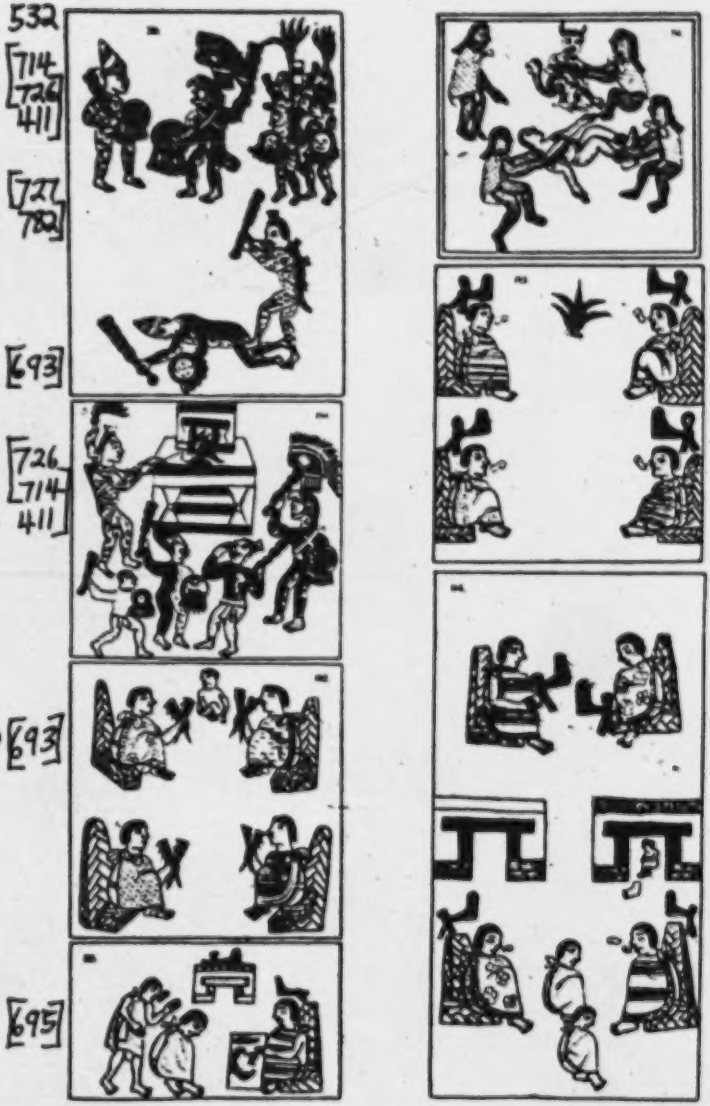

— After Paso y Troncoso

79. Warriors in battle array (Chapter 17). 80. Conquest of a city (Chapter 17). 81. Sacrifice of a war captive (Chapter 17). 82-94. Judges (Chapter 17). 95. A trial (Chapter 17).

[p. 36(K)]

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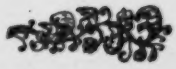

Fourteenth Chapter: here are described the palace and the houses of the lords: how were kept the houses of the lords [and] the great palace where the ruler dwelt; [how] all the lords[1] were disposed there, and there were determined the tributes or warfare; and in that place there was eating and drinking when the ruler assembled the people there.

Injc 14. capitulo vncan mjtoa in tecpancalli in tlatocacalli, ic mopia tlatocacalli, vej tecpan in vncan ca tlatoanj, izqujch tlacatl vncan tecpanoa, vncan motzontequj in tlein tequjtl, anoçe iauiotl: ioan vncan atlioa tlaqualo, injc vnca tecenqujxtia tlatoanj. 000

FIRST PARAGRAPH, in which is described the court of justice, the high court, [in which], when something was harmed, when some did evil, there they passed judgment on them.

Tlacxitlan:[2] there were the rulers, the princes, and the high judges. All the complaints of the lower classes and common folk they there heard and judged. And all death [sentences] they there meted out; either they would strangle one with a cord, or stone him to death, or slay him under wooden staves,[3] beaten; or some nobleman or judge was to be shaven [as a disgrace], or driven [out of the land], or confined, or made a commoner; or one would be seized and jailed in a wooden cage.[4] And there they delivered slaves from [undeserved] bondage.

[When] Moctezuma was lord, there was famine for two years, and many noblemen sold their young sons and maidens. When Moctezuma heard of this, he commanded that all [these] noble youths be brought together, and that their masters be told that their goods [which they had paid for them] were to be restored and returned to them. With large capes and mantles, and dried maize grains he paid the price for the noblemen. And a double forfeit he then paid in order to redeem and deliver the noblemen from bondage.

In that place, the Tlacxitlan, they did not delay the hearings. At once, forthwith, a judgment was pro-

INJC CE PARRAPHO ipan mjtoa in vncā tlatoloia, in audiençia in jquac itla itlacauija, in aqujque tlatlacoa, vncan qujntlatzontequjlaia. 692

Tlacxitlan, vncan catca tlatoque tlaçopipilti, tecutlatoque: in jxqujch tlamantli in jneteilhujl cujtlapilli atlapalli maçoalli: vnca qujcaqujlaia, vncan qujtlatzontequjlaia; ioan izqujch tlamantli mjqujztli vncan qujtzontequja aço aca quimecanjzque, anoço aca qujtetepachozque, anoço aca quauhtica mjqujz qujujujtequjzque, anoço aca pilli, anoço tecutlato, ximaloz, totocoz, callaliloz, macoxalcuepaloz, anoço aca ilpiloz quauhcalco tlaliloz: ioan vncan qujntlatlacollaçaia, in tlatlacoti. 693 696

Tlatocati in motecuçuma, oxiujtl in maianaloc, in pipilti mjiequjntin, in qujnnamacaque in jntelpuchoan, ioan in jmjchpuchoan, in jcoac in oqujcac motecuçuma: tlanaoati injc nechicolozque, in jxqujchtin tlaçotipipilti, ioan notzalozque in jntecujioboan, injc macozque, injc cuepililozque in jntlatquj. Veuej tilmatli, ioan quachtli, ioan tlaolli, injc qujmpatiotica pipilti, ioā oppamjxtlapan injc qujntlaxtlaujli, injc qujntlatlacollaz pipilti. 731 567 643

In oncan jn tlacxitlan amo tle vecaoaia in neteilhujlli, çan njman iciuhca motzontequja, in tlein 692 695

1. Cf. Sahagún, *op. cit.*, III, pp. 22-23: "*Los señores, tlaca, quiere decir, personas nobles, generosas o magníficas. . . . Y los compuestos de tlacat que le componen con nombres nuevos, significan personas nuevas, como diciendo en tlacat, una persona hombre, o mujer.*" Also cf. Leonhard Schultze Jena: *Glaubenswelt des Alt-Azteckischen Volkes in Familie, Stand und Beruf, aus dem Azteckischen Urtext Bernardino de Sahagun's* (Stuttgart: W. Kohlhammer Verlag, 1952), p. 32.
2. Clark, *op. cit.*, I, p. 97, defines the term as the highest criminal court, meaning "those placed below, at the foot."
3. See Pl. 66.
4. See Pls. 67, 87.

692 695 nounced. And in what was there made known, the lords did nothing for friendship's sake; they exacted nothing as reward; nor delayed [any case].

vncan caquitiloia tlatoque atle quicnjuhchioaia atle tlaxtlaujltica quixpachoaia, anoço qujuecaoaia.

SECOND PARAGRAPH, which telleth of the court, the place of discussion, where spoke the judges.

[693] Teccalli,[5] or Teccalco: there were the judges and noblemen.[6] Every day the common folk and vassals laid complaints before them. Calmly and prudently [212] they heard the plaints of the vassals; in the picture writing which recorded the case, they studied the complaints. And when they tested their truth, they sought out and inquired of informers and witnesses who could size up the plaintiffs, [who knew] what had been stolen and what was charged.

INJC VME PARRAPHO, itechpa tlatoa in audiencia in tlatoloian in vncan tlatoaia tecutlatoque.

Teccalli, teccalco, vncan catca in tecutlatoque, in tetecuti, in momuztlae imixpan moteilhujaia, cujtlapilli atlapalli maçeoalli, iujian iocuxca, in quicaquja in jnneteilhujl maçeoalli: tlapallacujlolpan in qujpoaia, in quittaia neteilhujlli: auh injc quinneltiliaia, qujntemoaia, qujmjtlanja in machiceque, in tlaneltilianj, in qujmachilia moteilhujque, in tlein qujmocujcujlia, in tlein ipan moteilhuja.

687 And the ruler, if he knew anything ill of these judges—perhaps that they needlessly delayed the case of common folk, that they deliberated two years or even four—[that] they could not pronounce judgment because of either a bribe or kinship,—he then seized them and jailed them in wooden cages, exacted the penalty, and slew them, so that the judges might walk in dread.

Auh in tlatoanj, intla itla quinmachili in ieboantin tecutlatoque, aço çã tlapic qujuecaoa, in jneteilhujl cujtlapilli, atlapalli, aço ie uxiujtl, anoço ie nauhxiujtl quinemjtia in amo uel quitzontecuj, aço çan ipampa tlaxtlaujlli, anoço hoeiolcaiotl: njman qujmjlpia, quauhcalco qujntlalia, qujtzacutiuj, qujmjctia, injc mauhca iezque tecutlatoque.

[When] Moctezuma was lord, he learned many ill things of the judges Mixcoatlailotlac, Teicnotlamachti, Tlacochcalcatl,[7] Iztlaca mixcoatlailotlac, Umaca,[8] Toqual. Uictlolinqui, [all] of Tlatilulco—that they had unjustly discharged their office of judge. Then he seized them, jailed them in wooden cages, exacted the penalty, and slew them.

Tlatocati motecuçuma, mjiec tlamantli in qujnmachili tecutlatoque mjxcoatlailotlac teicnotlamachti, tlacochcalcatl, iztlaca mjxcoatlailotlac vmaca, toquai, victlolinquj, tlatilulco in amo melaoac qujchioaia in jntequjuh tecutlatolli: njman qujmjlpi, quauhcalco qujntlali, qujtzacutiaque, qujnmjcti.

692 565 684 THIRD PARAGRAPH, in which is described the place of discussion where were the brave warriors and the noblemen.

INJC EI PARRAPHO: vncan najtoa in tlatoloian, in vncan catca in tiacaoan, ioan in pipilti.

Tecpilcalli: there were [to be found] and were established the noblemen, the brave warriors,[9] the valiant men, wise in war. If the ruler knew something ill of some nobleman—although he were a great prince,[10] or brave warrior—if he had committed adultery, then he sentenced him to be stoned before the people, to die stoned.

Tecpilcalli, vncan catca, vncan tecpanoaia in pipilti, tiacahoan oqujchti, in iauc matinj, in tlatoanj intla aca itla qujmachili pilli, in manel cenca tlaçopilli tiacauh intla otetlaxtin, njman qujtlatzontequjlia, injc teixpan tetepacholo tetica mjquj

[When] Moctezuma was lord, one who was a prince, named Uitznauatl ecamalacotl, committed

motecuçuma tlatocati, ce tlacatl tlaçopilli itoca vitznauatl ecamalacotl tetlaxi in oconteixpauique ix-

5. Sahagún, in the corresponding Spanish text, refers to all of these places as "another hall"—"otra sala."

6. Manuel Orozco y Berra, in *Historia antigua y de la conquista de México* (México: Tipografía de Gonzalo A. Esteva, 1880), I, p. 267, explains that "*En cada barrio de México había un tecalli, donde ordinariamente por las mañanas, durante el tiempo que precedía a las horas superiores.*" Clark, *loc. cit.*, I, p. 97) writes: "The four seated figures behind the judges, called *tecali*, are young men of rank who attend the courts for instruction, so that in time they might rise to the position of judge." (See also fl. 67r and 68r of the *Mendoza Codex.*)

7. *Tlacochcalcatl*, *pilli*, *tecpilli*: cf. Sahagún, *op. cit.*, III, p. 26; Jens, *op. cit.*, pp. 34, 68.

8. *Tlaxopilli*: cf. Jens, *op. cit.*, p. 34.

6: Sahagún M-5 (1529-1590) 1954 NU7 Aztec NU7

728 651 which was there made. And likewise, forthwith a steward was placed in office, who would watch over and levy the tribute.

SECOND PARAGRAPH, in which it is described how they chose judges.

613 693 565 The ruler watched especially over the trials; he heard all the accusations and the complaints, the afflictions, and the misery of the common folk, the orphans, the poor, and the vassals.

And in order that the ruler might verify one's accusations and guilt, there were placed in office, and [the ruler] chose, as his judges,[1] the princes, those who were endowed with the necessities of life, those provided with drink and food—the rich; and the brave warriors and men [at arms], who had been reared in war and had gloried in all kinds of suffering and misery. In all things had their upbringing, their rearing, been sound. In their infancy they had been taught [according to] the upbringing in the priests' house, or the rearing by the masters of the youths, growing up with others, living in the [same] houses as others, engaging in war, taking captives.

And likewise the ruler thus chose and placed in office judges of the Mexicans who were not noblemen—those of sound and righteous upbringing, who had been reared in war: brave warriors and men [at arms] who in many ways had won glory by the favor of the ruler. By his grace they drank and ate.[2] He gave them contentment and he gave them gifts; he bestowed upon them whatsoever they needed.

[577] Such as these the ruler gave office and chose as his judges—the wise, the able, the sage; who listened and spoke well; who were of good memory; who spoke not vainly nor lightly; who did not make friends without forethought nor were drunkards; who guarded their lineage with honor; who slept not overmuch, [but rather] arose early; who did nothing for friendship's or kinship's sake, nor for enmity; who would not hear nor judge a case for a fee. The ruler might condemn them to death; [681] hence they performed their offices as judges righteously. For otherwise, these judges could find excuse for the wrongs which they might do.

And when the ruler placed his judges in office, he gave them two court rooms, the Tecalli, where they

INIC VME PARRAPHO: ip[illegible]tuo quenin quinpepenaia Iuezes.

In tlatoanj oc cenca quimocuitlaujaia in tetlatzontequjlilizti, quicaquja in jxquich in jnetelhuj: ioan in jchoquiz, in jnentlamachiliz in jnetolinjliz in cujtlapalli, atlapalli in jcnotlacatl, in motolinja in maçeoalli:

auh inic uel quineltiliaia in tlatoanj in teneteilhuj anoço tetlatlacul quimjxquetzaia, quinpepenaia in jtecutlatocahoan: ichoantin in tlaçopipilti, in tlaiecultilo in oncā in quinj, in quiquani, in mocujltonoa, ioan tiacaoan, oquichti, in iauc omonecaltique, mjiec tlamātli tecoco netolinjliztli, oquimauiçoque: auh in jxquj tlamantlj qualli neoapaoaliztli, nezcaltililizti, in jnpiltian oquimomachtique, in calmecac neoapaoaliztli, in tiachcapa neoapaoaliztli, in tetlan neoapaoaliztli, in calpan tetlan nemjliztli, iauquiçaliztli, tlamaliztli.

Auh çan no iuhq[illegible], inic quinpepenaia tlatoanj, inic quimjxquetzaia in tecutlatoque, in mexica, in amo pipilti ichoantin in qualli iectli, inneoapaoaliz, innezcaltiliz, in iauc omoopaoubque, in tiacaboan in oquichti, in mjiec tlamantli oquimauiçoque, iteicneliliz tlatoanj, in jpal atli, tlaqua, in quinpaquiltia, in quintlaubtia, ioan in quinmaca, in jxquich intech monequj:

iubque in in quimjxquetzaia, in quinpepenaia tlatoanj, in jtecutlatocahoan, in mjmatinj, in mozcalianj, in tlanemjlianj, in vellacaquj, in vellatoa, in motlaiollotianj, in amo ahaujllatoa, in amo cacamanaloa, in amo iliuiz moocnjuhtia, amo tlaoananj, cenca quimauizpia in tecuiotl, amo cochinj, cenca cochiçanj amo tle quicnjubchioa: amo tle quioaiolcachioa: amo tle quitecocolicachioa, amo tlaxtlaujltica quicaquj, anoço quitzontequj: quimjquiznaoatiaia, in tlatoanj: inic melaoac quichioazque in jntequjuh, in tecutlatollj: auh intlacamo, ca ichoantin conmotzacujlitiazque in tecutlatoque, in tlein quitlacoaque.

Auh in jcnac, oquimjxqueti in tlatoanj: in jtecutlatocahoan quinmacaia vntetl in tlaiecacalli, in tec-

1. [illegible] cf. ibid., p. 310 (for sequent [illegible]) and p. 331 (translation).

were to remain, to make judgments, and to hear all manner of testimony.

The name of one Teccalli was Tlacxitlan. There they tried princes and great lords. At once, swiftly, they passed judgment on their complaints or wrong doing.

And the second place where justice was done was named Teccalli. There were the Mexican judges. Sagely they heard the complaints of the common folk. They defined and verified the complaint, they recorded it in paintings so that they might take it there to Tlacxitlan, where they informed the judges who were princes, so that there judgment might be pronounced.

And if something was difficult, they took it to the ruler so that he might judge it [with] those judges[4] whose names were Ciuacoatl, Tlacochcalcatl, Uitznauatlailotlac, Ticociuacatl, Pochtecatlailotlac, Ezuauacatl,[5] Mexicatl tezcacoacatl, Acatliacapanecatl, Milnauatl, Athauicatl, Ticociuacatl, Ciuatecpanecatl, and Tequixquinaoyocatl. These same judges meditated and pondered upon, and examined, the testimony. They sought out the witnesses, those who bore testimony. Perchance [the charge] was true; or else that which the ruler had heard was false, so that, perhaps, by error[6] someone had been held in jail.

And if the ruler condemned someone to die, then his executioners slew him—the Achcacauhti,[7] the Quauhnochtli, and the Atempanecatl. Thus did these slay him: with a cord they strangled the evildoer, or they stoned him before the people, or they cut him to pieces.

THIRD PARAGRAPH, in which is described how all were to dance.

The ruler was greatly concerned with the dance, the rejoicing, in order to hearten and console all the peers, the lords, the noblemen, the brave warriors, and all the common folk and vassals.

First the ruler announced what song should be intoned. He commanded the singers to rehearse and practise the song and [to prepare] the two-toned

calli, in vncan iexque, in vncā tetlatzontequjlizque, 643
in vncan qujcaquizque in jxquich tlamātli tlacatlatolli, 693
in centetl teccalli, itoca tlacxitlan, in vncā tetlatzontequjliaia tlaçopipilti, tlatocapipilti, çan njman içiuhca quitzontequja intenetcilhujl, anoço tetlatlacul. 565 [344]

Auh injc vccan tecutlatoloia, itoca teccalli, vncan catca in tecutlatoque mexica: iujian iocuxca qujcaquja, in jneteilhujl cujtlapilli, atlapalli, in oqujchipauhque, in oqujiectilique neteilhujlli, tlapallacujlolpan quitlalia, injc vmpa quitquj tlacxitlan in jpā quintlapoujlia in tecutlatoque in tlaçopipilti, injc vmpa motzontequj. 693 [344] 565 695 [212]

Auh intla itla oujlitica iujc quitquj in tlatoanj injc ichoanti quitzontequj in jntoca catca tecutlatoque. Çioacoatl tlacochcalcatl, vitznaoatlailotlac, ticociaocatl, pochteca tlailotlac, ezoaoacatl, mexicatl tezcacoacatl, acatliacapanecatl, mjlnaoatl, atlauhcatl, ticociaoacatl, çioatecpanecatl, tequjxqujnaoacatl, iehox ', in tecutlatoque qujnemjliaia, qujchiquja, quij- ia in tlacatlatolli, quintemoaia in machicaque, in tlaneltilianj, in aço ie nelli, anoço tlatolchichioalli in caquitilo tlatoanj, in aço can tlapic aca quauhcaloo otlalilloc. 695 643

Auh intla aca quitlatzontequjlia tlatoanj mjqujz, njman quimjctia, in jtemjcticaoan achcacauhti, quauhnochtli, atempanecatl: injc iehoantin quimjctia, quimecanja in tlatlacoanj, anoço teixpan quitetepachoa, anoço quitetequj. 693 696

INJC EI PARRAPHO: ipan mjtoa in quenjn netotilos. 535

In tlatoanj oc cenca quimocuitlaujaia, in maçeoltzli, in papaqujltzli, injc quimellaquaoa, injc quinjollalia, in jxquichtin tlatoque, ioan pipilti, ioan tetecuti, ioan tiacahoan: ioan in jxquich in cujtlapilli, atlapalli, in maçeoalli: 643

achtopa quitoaia in tlatoanj, in tlein cujcatl meoaz quinnaoatiaia in cujcanjme: injc quichecoaque injc quichicoanque in cujcatl, ioan teponaztli, olmaitl, 643 533 534

6. *The corresponding Spanish text reads:* "Y los casos, muy difficultosos, y graues, encomendaua al señor: para que los sentenciasse juntamente con sus principales, muy cuidadosos, que eran el audiencia, y consejo."

7. *After the word* pochtecatlailotlac, *the Real Academia de la Historia MS includes* tecuxtlahuicatlailotlac; *ecuxtlahuicatl appears to ejaculated.*
The title Tlacochcalcatl is repeated in the Aztec text of the Florentine Codex.

8. *Cox dispic: goo is probably meant (cf. ibid.).*

9. *Achcacauhtli: cf. Sahagún, op. cit., I, pp. 144, 291, 293; II, pp. 310, 321; also Anderson and Dibble, op. cit., II, p. 100, and III, p. 53.*

726 soned warrior, a shorn one, named Uitziluatzin, placed himself above, on the roof terrace of the young men's house. Like a wall he now became.[10] Meanwhile, the common folk followed him a little. But the Spaniards then fell upon them and bore down on them, and thereupon beat, hacked, and pierced him. Then once more the chieftains set upon [the Spaniards], and they then quickly loosed the chieftain [Uitziluatzin]. Then they went to lay hands on him, but he did not, nevertheless, die. Then they went, and all was quiet.

And [the temple with] images of the devils [the Spaniards] then set fire to. They burned it.[11]

And the chieftains to no purpose came to hold their position. Yet [the Spaniards] shot no arrows at the women, but only at those who came out as men [of war]. And when all ceased, there was only a little sun.

And on the fourth day likewise it came to pass that our foes marched forth together. Wheresoever there were common folk, there the Spaniards moved cautiously. Very softly they kept going. And the chieftain and commanding general Temilotzin in vain opposed them. He took refuge behind a wall. [411] As an eagle [warrior] he stepped forth; he had his iron sword with him, with which he would cut them down. But when he saw that nowhere could he do anything, then he cast himself into, and made his way in, the water. There were great war cries. Then once again the battle engulfed them. Only there did they reach. In truth, all day did the battle last.

And when it had dawned, when already it was the fifth day, once again our [Indian] foes and the Spaniards made an assault. And all who surrounded us, in truth, marched together. They were around us, hemming us in. Nowhere could any go nor proceed. All were indeed compressed. All were verily crushed and trampled. And when they had come clóse among us, a woman poured water upon them; she drenched their faces; she dashed water into the faces of our foes.[12]

● [693] And the ruler Quauhtemoc, and the chieftains Coyoueuetzin, Temilotzin, Topantemoctzin, Auelitoctzin the chief justice, Tlacotzin, and Petlauhtzin

tocac in macevalli. Auh in Españoles: njmā ic imp⁷ ommotepeuhque, inpan ommotoquiquc: njman ic ic quivivitequj, quitlatlapana, quitzelilia: njman ic ic no ceppa quivallazque in tiiacaoan: auh njman ic quicauhtiquizque in tiiacauh. njnan ic conanato, amo tel vel mjc, njmā ic iaque, cactimoman.

Auh in diablome imjxiptlavan: vncan contlecavique, contlatlatique.

Auh in tiiacavan, oc nen valmomantivi tel amo ma quinmjna in cioa: çan iehoantin in oquichicativitzc: auh in necacaoaloc ça achiton tonatiuh.

Auh injc navilhujtl çan ie no ivi in mochiuh cemolinque in toiaovan: in vmpa onoc macevalli vmpa tlamattivi in Españoles, cencan ivian in iativi. Auh in tiiacauh tlacateccatl in temjlotzin, oc nen quinmopachiviaia, tepantli quimotocti Quauhtli ipan quizticac, itepuzmaquauh ieticac, injc quincotonaz-quja: auh in oquittac in aoccampa veli, njmā ic atlan valmomaiauh, axotlatiuh, cenca tlacavaca: vncan ie no ceppa motetemmā in iauiotl, çan vncan acito: vel cemjlhujtl in manca iauiotl.

Auh in otlatvic, in ie ic macujilhujtl· ie no ceppa vel quicētlaz in toiaouh in Españoles: yoan in jxquich in techiaoalotoc, vel cemolin, vel techiavaloque, techololhujque, aocac campa vel huja vel nenoxocolo, vel nepapatzolo, vel mjequintin patzmjcque, nequequeçaloc. Auh in cenca ie in techonaci, ce civatl quivallatequja, quimjxatequja, quimjxapapatza in toiaovan.

Auh in tlatoanj in Quauhtemoctzin yoan in tiiacavan in Coioveuetzi in Temjlotzin, Topantemoctzin, Auelitoctzin. Mixcoatlailotlactzin. Tlacutzin, Pe-

10. *Ibid.*: "en cuanto que se levantaba Vitzilopuztzin con muchas calabazas que estaua sobre las chapanzas comiçaron a reuir [resistir?] a los españoles peleando por todas partes que no pudieron a dalle estando el enzima."

11. *Ibid.*: "y otro dia los españoles pegaron fuego aquella casa en la qual auia muchas ymagenes de los ydolos." See Anderson and Dibble, op. cit., II—*The Ceremonies*, p. 168 (Conclusion).

12. Corresponding Spanish text: "los mugeres ninguna pelearon respondo a los contrarios con el agua de los ayuntes arrojandosela con las manos."

them seized upon a great chieftain named Tlapaltecatl opochtzin, whose home was Coatlan. Thereupon they arrayed him, and put on him the quetzal feather owl[13] which had been the device of Auitzotzin. Quauhtemoc said: "This device was the device of my begetter, of my father Auitzotzin.[14] Let him wear it. Let him die in it. May he gain honor before the people. May he become a portent in it. May our foes see and marvel at him." [15] And when they put it on him, he was indeed terrifying. Truly wonderful he appeared. And [Quauhtemoctzin] commanded four to aid him and be at his side. They gave him the darts[16] [and dart thrower] which were the devil's — the throwing spears with flint points.

And when they had done this, it became like a portent for the lords of the Mexicans. The ruler's vicar Tlacotzin said: "O Mexicans! O Tlatilulcans! Hath Mexico been nothing — that on which Mexican rule was founded? It is said to be with the power of Uitzilopochtli, which he hurled at one. It is none other than the fire serpent, the fire drill, with which he walked, casting it at our foes — which you, O Mexicans, have held as his power of the dart. Forthwith you will aim it against our foes. You will cast it not to the earth; you will hurl it with strength at [the foe]. And if one or two will be struck — if one or two of our enemies will be reached, — it is in truth a token for us [that] yet, for a little, we shall look to favor; [that] yet our lord [the god] may desire it." Thereupon went the quetzal-owl [bedight warrior], with quetzal feathers as if parted.

And when our foes saw him, [it was] as if a mountain had burst. In truth, all the Spaniards took fright; much did he terrify them, as if they had seen in him something [inhuman]. Then the quetzal-owl [warrior] climbed up to the roof terrace. And some of our foes, who could see him, stood up. Then they forced him to turn back, and took after tlauhtzin. Nimã ic conanq̃ ce vei tiacauh, itoca Tlapaltecatl opuchtzin coatlan ichã njman ic ic quichchios, conaquiqque, in quetzalteculotl: itlaviz catca in Auitzotzin: quito in Quauhtemoctzin. Inja tlaviztli, itlaviz catca in notechiuhcauh in notatzi Auitzotzin, ma ichoatl conjtquj ma ipan onnmjquj ma cõcemaviçolti ma ipan tetlattiti ma quittacan in toiuovan ma quimaviçocan. Auh in oconaquique vel temamauhti, vel maviztic in neci: auh navinti in quionavatique in quivalpalevitiazque, in quivallamatilitiazque, quivalmacaque in jmjuh catca tlacateculotl, tlacumjtl, iacatecpaio.

Auh injc iuh quichiuhque in, iuhquinma intlapoal muchiuh in tlatoque in Mexica: quito in Civacoatl tlacutzin. Mexicae tlatilulcae, atlei injc mexico ocatca, injc ommanca mexicaiutl: in mjtos in vncan inavatil in vitzilobuchtli in tepã quitlaça ca çan iee in xiuhcoatl, in mamalhoatzli in otepã quitlaztinenca in toiuupan in ie anconcuj Mexicae in jnaoatil in mjtl: çan njmã vmpa anquitlachieltizque in Iviepa toiuovan, amo çan tlalpan anquimaiavizque cenca intech in anquitlaçazque: auh intla oc, anoço vme moemjoaz: auh in ano oc, anoço vme in maçiz toiauh ca nel totlapoal, oc achitzin tinacazitztiazque, oc quenjn quimonequjkiz in totecuio: njman ic ic iauh in quetzalteculotl, in quetzalli iuhquin zeneliuhtiuh.

Auh in oquittaque in toiuovan, iuhquin tepetl vitomj vel muchintin momauhtique in Españoles, cenca quinmauhti, iuhquinma itla ipan quittaque: njman ic tlapanco tlecoc in quetzalteculotl. Auh in cequintin toiuovan in ovel quittaque moquetzque: njman ic quivalcuepque, quivaltocaque: ie no ceppa no quinconep quintocac in quetzalteculotl, njman

13. Buonarroti, op. cit., p. 211: "no desc (desde de plumajes rizos y espantable)."

14. White Book XII was in press Dr. Anderson wrote the following comment from Florence, Italy: "The word is almost illegible in the MS. reproduction of the original (Med.-Palat. 218-220, Laurentian Library, Florence), in connection with researches in Europe made possible by the John Simon Guggenheim Memorial Foundation, suggests that nonetheless it (my reader or beggiter) is correct."

15. Corresponding Spanish text: "Estando ya los mexicanos armados de todas partes de las encrucijadas acudieron de nuevo guerreando a aquella parte donde estaba el que llevaba el plumaje de quetzal, y halló el señor de México que se llamaba Tlapaltecatl opochtzin, y dicen a los principales que con él estaba . . . hagamos experiencia a ver si podremos conocer desde peligro y que entonces entonces de los más valientes que allí entre mexicanos y dicen los otros y dicipal que grana de mal pudre Auitzotzin: luego llamaron a un mancebo allí entre llamado que se llamaba Tlapaltecatl opochtzin que era del barrio de Coatlan donde se agora la parroquia de S.ª catalina en el Tlatelolco."

16. The Aztec text may read *laj tajtak*. *In jmjtak* is probably correct.

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deer, mallards, young dogs and other things of that sort in their part of the market, and let us also mention the fruiterers, and the women who sold cooked food, dough and tripe in their own part of the market; then every sort of pottery made in a thousand different forms from great water jars to little jugs, these also had a place to themselves; then those who sold honey and honey paste and other dainties like nut paste, and those who sold lumber, boards, cradles, beams, blocks and benches, each article by itself, and the vendors of *ocote*[1] firewood, and other things of a similar nature. I must furthermore mention, asking your pardon, that they also sold many canoes full of human excrement, and these were kept in the creeks near the market, and this they use to make salt or for tanning skins, for without it they say that they cannot be well prepared. I know well that some gentlemen laugh at this, but I say that it is so, and I may add that on all the roads it is a usual thing to have places made of reeds or straw or grass, so that they may be screened from the passers by, into these they retire when they wish to purge their bowels so that even that filth should not be lost. But why do I waste so many words in recounting what they sell in that great market, for I shall never finish if I tell it all in detail. Paper, which in this country is called *Amal*, and reeds scented with *liquidambar*, and full of tobacco, and yellow ointments and things of that sort are sold by themselves, and much cochineal is sold under the arcades which are in that great market place, and there are many vendors of herbs and other sorts of trades. There are also buildings where three magistrates sit in judgment, and there are executive officers like *Alguacils* who inspect the merchandise. I am forgetting those who sell salt, and those who make the stone knives, and how they split them

[1] Pitch-pine for torches

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delighted to be here some days with us of his own free will and not by force, and that when he wished for anything he would tell them so, and that they must not excite themselves nor the City, nor were they to take it to heart, for what had happened about his being there was agreeable to his Huichilobos, and certain priests who knew had told him so, for they had spoken to the Idol about it. In this way which I have now related the capture of the Great Montezuma was effected.

There, where he remained, he had his service and his women and his baths in which he bathed himself, and twenty great chiefs always stayed in his company holding their ancient offices, as well as his councillors and captains, and he stayed there a prisoner without showing any anger at it, and Ambassadors from distant lands came there with their suites, and brought him his tribute, and he carried on his important business. I call to mind that when Great Caciques from distant lands came before him about boundaries or towns, or other business of that sort, however great a chief he might be, he took off his rich mantle and put on one of hennequen of little worth, and he had to come barefoot, and when he came to the apartments he did not pass straight in, but on one side, and when he came before the Great Montezuma he cast his eyes down to the ground, and before approaching him he made three bows and said "Lord, my Lord, my great Lord," and then he brought the suit or other difficulty about which he desired to consult him, drawn and painted on hennequen cloths, and with some very thin and delicate sticks he pointed out the origin of the suit. Two old men who were Great Caciques stood near Montezuma, and when they thoroughly understood the pleas, those judges told Montezuma the rights of the case, and with a few words he settled it, and gave judgment as to whom the lands or towns should belong. The litigants retired without making any reply

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512 [264] no meat, only chili peppers,[1] then he was occupied for an hour in hearing suits from many parts brought by Caciques who came to him from distant lands. I have already stated in the chapter that tells about it, the manner in which they came in to do their business and the reverence that they showed to Montezuma, and that at such times he always had in his company twenty elderly men who were his [693] judges to decide cases, and as this has been already noted I will not repeat it. It was then that we found out that from among the many women whom he had as his mistresses, he gave wives to his Captains and to very favourite chieftains, and he even gave some of them to our soldiers, and the one he gave to me was a lady from among them, and her bearing clearly showed it, and she was called Doña Francisca. So Montezuma passed his life, sometimes laughing and sometimes thinking about his imprisonment.

ooo I wish to state here, although it has nothing to do with our story, as some inquisitive persons have asked me just why the soldier mentioned by me, who called Montezuma a dog, and even that not in his presence, was flogged by order of Cortés, (there being so few of us soldiers), so that the Indians should hear about it. I say so [again], that at that time all of us and even Cortés himself, when we appeared before the great Montezuma, paid respect to him by always doffing our headpieces and besides being King of New Spain, his person and his rank entitled him to it, and he was so kind and well mannered that he did honour to us all. In addition to all this, one may well remember that our lives were at stake, and at a word to his vassals, they would have removed him from his prison and made war on us. Observing his bearing and royal generosity, and seeing that he always had with him

[1] Ají.

16:Bandelier E-4 (no date) 1880 NU7 Aztec NU7

618 themselves until they finally agreed upon an award.[191] The
646 same thing occurred when two calpulli claimed possession or
695 enjoyment of the same piece of land.[192] No appeal was possible to any higher authority; but every eighty days an extraordinary gathering took place at the "tecpan," consisting of the council and the executive chieftains, the war-captains of the four great quarters, the "elder brothers" of the kins, and the leading medicine-men, and any cause pending before the "tlatocan" might be deferred until the next of these general meetings; and even in case a decision had been rendered, a reconsideration thereof, on that occasion, was sometimes agreed upon.[193]

calls "supremo consejo:" "Tratábanse en este consejo todo género de negocios de estado, justicia, guerra, hacienda etc., etc."

[191] This picture is mainly based upon *Veytia* ("*Historia antigua*," III. cap. VII), and *Bustamente* ("*Tezcoco*," pp. 191 and 192). The statement in the latter is only worthy of credit because copied from the former.

[192] *Veytia* (Lib. III, cap. VII, p. 207). *Clavigero* (Lib. VII. cap. XVI, p. 483). For a copy of the paintings reproduced, see *A. de Humboldt* ("*Vues des Cordillères*," etc., Vol. I, plate V. Ed. 8vo).

[643 693] [193] I affirm this in the face of all the authorities on the subject, who, without exception, assert that there was an appeal to the "king." The *Codex Mendoza* (plate LXX, "Declaracion de la figurado") is even very positive: "Y si era negocio de calidad del consejo, havia apelacion por via de agravio ante Montequma, en donde habia conclusion de la causa." My opinion is based on what precedes about the authority of the council, on what I expect to prove in relation to the true nature of the duties of the head-chiefs and which will hereafter follow, and on the contradictions among the authors themselves. Thus the "*Codice Ramirez*" (p. 58) places the supreme power into the hands of the councils "sin parescer de los quales ninguna cosa se habia de hacer," and (pp. 64 and 65) it does not mention any power of appeal whatever. *Zurita* (pp. 100 and 101): "Les appels étaient portés devant douze autres juges supérieurs qui prononçaient d'apres l'avis du souverain." It is queer to notice, how the writers of the texcucan school, appear eager to place the power of final decree or the decision of final appeal in a "high tribunal," or rather simply a supreme council of their tribe. *Torquemada* (Lib. II, cap. XXXXI, p. 146) mentions a supreme council, "á los quales avian de venir todas las cosas graves, y criminales, para que ellos, con el Rei, las determinassen." (Lib. XI, cap. XXVI, p. 334): "Para estos dos Jueces Supremos se apelaban las causas graves, los quales las admitian, pero no determinaban, ni sentenciaban, sin parecer, y acuerdo de el Rei." *Veytia* (Lib. III, cap. VII, p. 199) speaks of the establishment of "tribunals" by "Fasting wolf" ("Nezahualcoyotl"—properly "fasting coyote"), and adds: "pero concediendo á las partes el recurso de apelacion para el gran tribunal de justicia que erigió en su corte de Texcuco." This so-called tribunal was, as we have shown at the close of note 190, the "Council of the tribe." *Mendieta* (Lib. II, cap. XXVIII, p. 135) almost copies Zurita. *Sahagun* ("*Historia general*," etc., Lib. VIII, cap. XXV, p. 314): "y los casos muy dificultnosos y graves, llevábanlos al señor para que los sentenciase, juntamente con trece principales muy calificados, que con el andaban, y residian." "Estos tales eran los mayores jueces, que ellos llamaban tecutlatoque. . . ." In this case the learned father speaks of tribal jurisdiction and not of arbitration. Still it is plain that he admits the *council's decree as final*. The chief, "señor," appears only as member of this council, a position of which we shall hereafter speak. Without making any further quotations from similar authorities, I beg to revert to those which place, *by the side of the so-called "King,"* an independent "supreme Judge"—the "Cihuacohuatl," whose tribunal

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Aside from these arbitrative functions, other duties occupied the council's time at its full meetings. If any calpulli felt wronged in the distribution of the incoming tribute, it might through its delegate or "speaker,"[194] complain about the tribal officers answerable for it to the "tlatocan." The investiture of chiefs and officers of the kins belonged to the highest authority of the tribe

is positively mentioned as the final court of appeals. That this "Cihuacohuatl" occupied a high position, was already noticed by *Cortés* ("*Carta tercera*," Vedia I, p. 89), and subsequently, when he became still more prominent, by *Tezozomoc*. But *Torquemada* has been to my knowledge, the first one to establish his position as independent supreme Judge. It is not devoid of interest to notice what he writes about this office. ("*Monarchia Indiana*," Lib. XI, cap. XXV, p. 252): "Despues del Rei, havia un Presidente, y Juez maior, cuio nombre, por raçon de el oficio, era Cihuacohuatl . . . . . De este Presidente no se apelaba para el Rei, ni para otro Juez alguno, ni podia tener Teniente, ni substituto, sino que por su misma persona havia de determinar, y decidir todos los negocios de su juzgado, y audiencia." He further adds; "lo qual no corria en este dicho Juez Cihuacohuatl; porque de su ultima determinacion no habia recurso á otro." *Fray Augustin de Vetancurt* ("*Teatro Mexicano*," Vol. I, Parte 2a, Trat. 2°, cap. I, p. 309): "Despues del Rey . . . habia un virey que llamaban Cihuacohuatl, que el rey proveia y era su segunda persona en el gobierno, de cuya sentencia no habia apelacion á otro. Tan absoluta era la autoridad que le daba, que reservando el rey en si la autoridad real, era en la judicatura igual." These statements distinctly hint at the existence of an appellate judicial body, of which this Cihuacohuatl was foreman, and over which the so-called "King" had no control. *Clavigero* (Lib. VII, cap. XVI, p. 481) even states that while there was no appeal from the Cihuacohuatl whatever, there was one of these officers "at the court and the principal cities of the kingdom." These views in regard to the "Cihuacohuatl" have been plainly accepted by *W. H. Prescott* ("*Conquest of Mexico*," Vol. I, p. 29): "There was no appeal from his sentence to any other tribunal, not even to the king," and *H. H. Bancroft* ("*Native Races*," Vol. II, cap. XIV, pp. 434 and 435).

The confusion is apparent, for we have here three different views of the same case. One is that the "head-chief" was the highest appellate authority, the other that the head-chief, *with the council*, formed the court of last resort, and the third that a "supreme Judge" was appointed by the so-called "King" to render final decisions. Now we have already seen that the supreme authority was the council or "tlatocan," consequently what is commonly called the "king" could not be the last resort in judiciary matters, still less could he appoint an officer for that purpose. Our proposition appears, therefore, sustained, that there was no appeal from the decisions of the council to any superior authority whatever.

But, finally, it was possible to reconsider, so to say, the cases decided by the council, and for such the so-called "*Nauhpohualliatolli*" or "*eighty days-talk*" was instituted. Authorities are almost unanimous on this point, although it is commonly ascribed to *Tezcuco* alone, and I refrain from quoting them in detail, referring but to *Bancroft* ("*Native Races*," Vol. II, p. 420, etc.).

[194] This becomes evident from the relative positions of kin and tribe. As we shall hereafter see, the officers gathering and those receiving the tribute were tribal officers, consequently subject to the council. It was to the council, therefore, that any complaint had to be brought against them, and this could be done only through the "speaker" of a particular kin. That the tribute was distributed partly among the "calpulli" is indicated by *Durán* (Cap. IX, p. 79): "Tambien dieron á sus barrios para el culto de sus dioses, á cada barrio una suerte, etc.," and *Tezozomoc* ("*Crónica Mexicana*," Cap. X, p. 19): "y aunque venian á darlo á Ytzcoatl, era para todos los Mexicanos en comun."

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Such were, in a general way, the higher functions of the Mexican council, and they appear, if we are permitted to characterize them to be only arbitrative and directive. Yet the members of that council had other duties of a purely judicial nature. 646 692

No conflict occurred between its jurisdiction and that of the kins. It was neither superior nor inferior to it, but wholly independent, even without any connection with it. Hence it extended:

1. Over the unattached class, the hangers-on to the tribe, or outcasts from the bond of kinship.[19]

2. Over all the people composing the tribe, irrespective of kinship, at places specially placed under tribal care, or reserved for tribal business, and therefore *neutral ground* for the members of all the calpulli. These neutral localities were the official buildings, the central or tribal "house of god," and especially the great "tianquiz" or market places.

The outcasts were, happily for the preservation of tribal society, not very numerous. Still, from their very origin, they were the most disorderly part of the people and crimes were certainly more common among them than among those upon whose passions the tie of kinship and the obligations resulting therefrom acted like a wholesome check. It required a judiciary power constantly on hand to repress and punish the misdemeanors committed among this class.

The "tecpan," the great central "teocalli" and the square on which it stood, and the market, were regular meeting-places of 348 621 693

siguiente, etc. . . . . ." (Cap. LX. p. 473): "Montezuma, apiadándose dellos, los mandó aposentar, y llamando su consejo, propusoles la demanda que traian." *Codice Ramirez* (p. 61): "El Rey Itzcohuatl mostró gran contento con la embajada respondiendo con muy gratas palabras; mandó aposentar á los mensajeros, y hoararlos, y tratar como á su propia persona, diziéndoles que descansassen, que el dia siguiente les daria la respuesta." See also *Torquemada* (Lib. XIV, cap I, p. 533): "Acabada la Embaxada, si el Embaxador no era de mui gran Principe, no se le respondia cosa, hasta otro Dia; salian con él algunos, acompañandole á la Calpixca, adonde se proveia de lo necesario, y en el entretanto el Señor communicaba con los de su Consejo lo que se havia de responder, lo qual hacia uno de ellos, y no él." But the most complete picture of such delegations and the manner in which they were received is found in *Velancurt* ("*Teatro Mexicano*," Parte II'ª Trat. IIa, cap. II. pp. 378 and 379). It is too long to be copied. I merely allude to the words: "Acabada la embajada, le volvian á la posada mientras se juntaban para la respuesta." It has been adopted by *Clavigero* (Lib. VII, cap. XI, pp. 470 and 471).

[19] The unattached class was under protection of no kin; therefore, if such a "bonded man" made his escape to the Tecpan, he became liberated from his bond. Already mentioned by *Gomara* ("*Conquista*," Vedia, I. p. 443), and subsequently confirmed by others.

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368 people from *all* the calpulli, but over which no single kin could
621 exercise any control.[366] This control had been delegated to the
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[366] In regard to the "tecpan," the simple term "casa de comunidad." used particularly by *Torquemada* (Lib. VI, cap. XXIV, p. 48. and again Lib. XIII, cap. XXX, p. 477): la "Tecpan, que es el palacio." explains much. It is, besides, self-evident that the tribal places of business and of worship were under the control of no particular kin, being expressly reserved for the tribe. There is, however, no definite expression as yet, in fact it hardly amounts to a clear conception, of the number and position or location of the original "tianquiz" of Tenuchtitlan. There are four eye-witnesses of the conquest reporting upon the markets: Cortés, Andrés de Tapia, the anonymous conqueror, and Bernal-Diez de Castillo. I quote these in succession. *Cortés* ("*Carta Segunda*," Vedia, I. p. 32): "Tiene esta ciudad muchas plazas, donde h y continuos mercados y trato de comprar y vender. Tiene otra plaza tan grande como dos vezes la ciudad de Salamanca, toda cercada de portales al rededor, donde hay cotidianamente arriba de cesenta-mil animas comprando y vendiendo, . . ." "*Carta Tercera*," (p. 74): "hasta otra puente que está junto á la plaza de los principales aposentamientos de la ciudad." Note 2 of the Archbishop Lorenzana: "Antes de llegar á la plaza de la Universidad hay muchas puentes, y naturalmente habia aqui desta plaza ó mercado. que era muy grande." Id., (p. 78): "E porque este trabajo era incompartable, acordió de pasar el real al cabo de la calzada que va á dar al mercado de Temixtitan, que es una plaza harto mayor que la de Salamanca, y toda cercada de portales á la redonda;" (Id., p. 79): "seguimos nuestro camino. y entramos en la ciudad, á la cual llegados, yo reparti la gente desta manera; habia tres calles donde lo que teniamos ganado, que iban á dar al mercado. al cual los indios llaman Tianguizco, y á todo aquel sitio donde está llámanTlatelulco; y la una destas calles era la principal, que iba á dicho mercado, . . Las otras dos calles van desde la calle de Tacuba á dar al mercado." Id. (p. 81), after the repulse of the Spaniards: "todos los españoles vivos y muertos que tomaron los llevaron al Tlatelulco, que es el mercado." Id. (p. 83): "E aquel dia acabamos de ganar toda la calle de Tacuba y de adobar los malos pasos della, en tal manera que los del real de Pedro de Albarado se podian communicar con nosotros por la ciudad. é por la calle principal, que iba al mercado, se ganaron otras dos puentes y se cegó bien el agua. . . ." Id., "y seguimos la calle grande, que iba á dar al mercado;" (p. 86): "Otro dia siguiente, estando aderezando para volver á entrar en la ciudad, á los nueve horas del dia vimos de nuestro real salir humo de dos torres muy altas que estaban en el Tatelulco ó mercado de la ciudad." *Andrés de Tapia* ("*Relacion*," etc., in *Col. de Doc.*, II, p. 582): mentions only the "patio de los ídolos." "*El Conquistador anónimo*" (Col. de Doc., I. p. 386): "Sono nella città di Temestitan Messico grandissimo et bellissimo piazze, dove si vendono tutte le cose che usana fra loro, et specialmente la piazza maggiore che essi chiamano el Tatelula, che puo esser cosi grande como sarebbe tre volte la piazza di Salamanca, et sono all'intorno di essa tutti portici; . ." (p. 394): "Et oltra q'uesta gran piazza ve no sono dell'altre et mercati in che si vendono cose da mangiare in diverse parti della città." *Bernal Diez de Castillo* ("*Historia verdadera*," Vedia, II, cap. XCII, p. 89): "y cuando llegamos á la gran plaza, que se dice el Tatelulco, como no habiamos visto tal cosa, quedamos admirados de la multitud de gente y mercaderias que en ella habia, . ." He also states that the "gran plaza" was "cercado de portales." (Cap. CLII, p. 163): "que si nos parecia que fuesemos entrando de golpe en la ciudad hasta entrar y llegar al Tlatelulco, que es la plaza mayor Méjico, que es muy ancha, . . ." (Cap. CLV, p. 198): "que les entrásemos todo cuanto pudiésemos hasta llegalles al Tlatelulco. que es la plaza mayor, adonde estaban sus altos cues y adoratorios." We notice at once a contradiction. Cortés first mentions a market of Tenuchtitlan, and afterward he calls it of Tlatelulco. Archbishop Lorenzana identifies it with the "plaza de la Universidad," or in the neighborhood of the Cathedral. See *Cervántes-Salazar* ("*Tres Dialogos*," p. 9): "en la esquina de las calles del Arzobispado y Seminario."

366 There were two great market-places in ancient Mexico, one of which was in Tenuchtitlan, and the other in the conquered neighboring pueblo of Tlatelulco. This is very

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"tlatocan" as a consequence of the formation of the tribe. Crimes committed at such localities were punished with unusual severity, because they were offences desecrating *neutral* ground which was

plainly stated by Torquemada (Lib. XIV, cap. XIII, p. 535), and it would even appear as if, notwithstanding the importance attached to Tlatelulco by many authors, that the principal market was the one mentioned by this author as "el que está en la Poblacion de San Juan . . . ," and consequently the proper "tianquiz" of the Mexican tribe. This could only be neutral ground, over which no single kin exercised any authority. It may have been different in regard to the "tianquiz" of Tlatelulco; at least the following indications of *Durán* (Cap. XXXIV, p. 270) deserve full attention: "Fecho esto mandó el rey que aquella plaça y mercado que ellos ganaron, pues los tlatelulcas no tenian mas tierra, que fuese repartido entre los señores y que la parte que á cada uno cupiese, que de todos los tlatelulcas que allí hiciesen asiento, de todo lo que vendiesen les diesen alcanala, de cinco uno, y así se repartió la plaça entre todos, de donde cada uno cabrana alcanala de lo que en el lugar que le auia cauido se vendia." The above is not quite definite enough, because the "plaza y mercado" of which the friar speaks, is evidently the one mentioned by him (p. 260): "y encerrándoles en la plaça de su mercado, haciéndose los tlatelulcas fuertes, no dexauan entrar á la plaça ninguno de los Mexicanos en ella," whereas he says (p. 270): "que allí hiciesen asiento," as if the place was built over. The fact that the "tianquiz" of Tlatelulco was "distributed among the Mexicans" is further asserted by *Texcomoc* ("*Crónica Mexicana*," Cap. XLVI, p. 75, Kingsborough, Vol. 9): "Axayaca mandó tambien se hiciese repartimiento del tianquiz de Tlatilulco á los Mexicanos, y comenzaron á medir primera suerte Axayaca, luego á Zihuacoatl Tlacaeleltzin, luego par su orden Tlacochcalcatl, y á todos los capitanes, que fué tenido el tianquiz en mas de sí ganaran cien pueblos." It would therefore appear, if we interpret this "distribution" as it should be done, namely: *as a division of spoils among the kins*, that the latter claimed a share of tribute from the traffic or barter going on in the "tianquiz" of Tlatelulco, a fact corroborated besides by that other statement of *Durán* (p. 269): "El rey le mandó, que pues auian sido traidores á su corona real, que de allí adelante queria y era su voluntad que aquella parcialidad Mexicana del tlatelulco le fuesen tributarios y pecheros como las demas ciudades y provincias, . . ." This, and the uncertainty as to which tianquiz is always meant, favors the assumption that *Gomara* ("*Conquista*," p. 349, Vedia I) mentions Tlatelulco when he says: "Los que venden pagan algo del asiento al Rey, ó por alcabala ó porque los guarden de ladrones." *Cortés* ("*Carta Segunda*," pp. 32, 33 and 34) does not mention it, for the words: "donde están personas por guardas y que reciben certum quid de cada cosa que entra" do not apply to the market which he describes as having visited and which, in spite of *Bernal-Díaz* ("*Hist. Verdadera*," Cap. XCII, p. 89) I still believe to have been that of Tenuchtitlan, and *not* that of Tlatelulco. Cortés is strictly followed by *Oviedo* (Lib. XXXIII, cap. X, pp. 380 and 381) whereas *Herrera* (Dec. II, lib. VII, cap. XVI, p. 193) copies Gomara.

I have dwelt thus long on this question because it disposes of the notion that the "government" of Mexico levied a tax on the traffic of the members of the tribe. This tax limits itself to a tribute paid by the subjected tribe of Tlatelulco alone, because, as *Durán* says (p. 270) "they had no more soil than that of their tianquiz." This tax was distributed among the kins, like any other tribute. But it does not follow that therefore the kins exercised judicial power over the Tlatelulcan market. This power either remained with the Tlatelulcan tribe, or devolved upon the officers of the tribe of Tenuchtitlan. The former is more likely, although the latter might also have been the case since the Tlatelulcans were treated with great severity, as traitors and outcasts (*Durán*, Cap. XXXIV, pp. 269-271), in which case the tribal authorities would have had to punish them.

That the central or tribal "teocalli" and the courts surrounding it were committed to the care of the tribe, as representing all the kins, on equal terms, in the share which each had in it, is self-evident, and needs no further proof.

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368 621 693 then respected as open to use for all the kins in common.[901] So many people met there daily, that the daily exercise, at least the presence, of judicial authority was absolutely necessary.[902]

[901] *Las Casas* ("*Historia apologética*," Cap. 214, in note XLV of Lord Kingsborough, Vol. VIII, p. 134): "pero cuando reñian en los mercados, como á escandalosos y alborotadores del pueblo eran muy gravemente castigados." *Sahagun* (Lib. VIII, cap. XXXVI, p. 335) says even of those who disposed of stolen articles: "the Judges and chiefs took them and sentenced them to death." *Torquemada* (Lib. XII, cap. V, p. 581): "El que hurtaba en la Plaça ó Mercado, que llaman Tianquisco, luego allí era muerto á palos, por tener por muy grave culpa, que en semejante lugar, y tan publico, huviese tanto atrevimiento." *Clavigero* (Lib. VII, cap. XVII, p. 484): "He who changed the measures established by the government, in open market, was executed on the spot," and (p. 487): "He who stole in the market, was at once beaten to death." *Mendieta* (Lib. II, cap. XXIX, p. 138): "Porque tenian por grave el pecado cometido en la plaza ó mercado."

[902] We have again here the eye-witnesses. *Cortés* ("*Carta Segunda*." Vedia, I, p. 92): "Hay en esta gran plaza una muy buena casa como de audiencia, donde están siempre sentados diez ó doce personas, que son jueces y libran todos los casos y cosas que en el dicho mercado acaecen, y mandan castigar los delinquentes. Hay en la dicha plaza otras personas que andan continuo entre la gente mirando lo que se vende y las medidas con que miden lo que venden, y se ha visto quebrar alguna que estaba falsa." *Bernal Diez de Castillo* (Cap. XCII, p. 89): Vedia, II, "y tenian allí sus casas, donde juzgaban tres jueces y otros como alguaciles ejecutores que miraban las mercaderias." These two statements, with more or less variation, are at the base of all that has been subsequently said on this subject, except by *Sahagun* (Lib. VIII, cap. XXXVI, p. 323): "El señor tambien cuidaba del tianguiz y de todas las cosas que en el se vendian por amor de la gente popular, y de toda la gente forastera que allí venia, para que nadie los hiciese fraude, ni sin razon en el comercio de la feria. Por esta causa ponian por órden todas las cosas, que se vendian cada una en su lugar, y elegian por la misma oficiales que se llamaban tianquizpantlayacaque, los cuales tenian cargo del mercado, y todas las cosas que allí se vendian de cada género de mantenimientos ó mercaderias; tenia uno de estos cargo para poner los precios de las cosas que se vendian y para que no huvrise fraude entre los compradores y vendedores." "Tianquizpantlayacaque" decomposes into "Tianquizpan," "feriar, o tratar en mercado," *Molina* (II, p. 114), and "Tlayacatia," "cosa primera o delantera" (Id., p. 120); consequently, "the foremost or first ones of those who trade in open market." We have to discriminate therefore between these and such officers as "*sui*" ("están siempre sentados," says Cortés) within that "very good house" in the market, or rather close by, and acted as Judges. *Herrera* (Dec. II, Lib. VII, cap. XVI, p. 198) says this house was "cerca del Mercado"—a statement which he afterwards changes to "en la plaza de Mexico" (Dec. III, Lib. IV, cap. XVII, p. 137). We are now informed by *Torquemada* (Lib. XIV, cap. XIII, p. 555) that the *tecpan* of Tlatelulco "que son las Casas de Cabildo, y Audiencia" was, at his time, on one of the sides ("acera") of the *market* of Tlatelulco, and it appears to have been customary for the natives to have the official building facing the "tianquiz." Such was the case at Tezcuco if we are to believe *Ixtlilxochitl* ("*Hist. des Chichimèques*," Cap. XXXVI, p. 347): "Le palais avait deux cours, dont la première, qui était la plus grande, servait de place publique et de marché; elle est même encore aujourd'hui destinée à cet usage;" and if the market of Tenuchtitlan really was where Archbishop Lorenzana places it (see note 300), then it is evident that the Mexican tecpan must have been very near it, if not actually facing the square. The "great house" mentioned by the eye-witnesses quoted, was therefore, in all probability, but the council or official-house of the tribe, and the old men who, in number from three to twelve, are said to have officiated as "Judges," were members of the "tlatocan" or supreme council on judicial duty, as we shall hereafter see. Those officers who circulated among the people maintaining peace and order, were executive

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It therefore demanded the daily attendance at the official house of the tribe of a body of men sitting as "judges." The decisions of these judges had to be final even in matters of life and death. Therefore the chiefs composing the highest authority of the tribe, the members of the council or "tlatoca," were also its supreme judges. It is stated that for this daily work the twenty "speakers" were subdivided into two bodies sitting simultaneously in two different halls of the ".tecpan." One of these bodies is called "court of the nobles" because it attended, not merely to tribal cases, but especially to the preparatory business of government in general, whereas the other limited its decrees to judicial questions only.[203]

officers delegated for that special purpose, and, as we shall find, probably under orders of the military commanders of the tribe.

[203] This division of the council into two bodies for the purpose of greater dispatch of judicial work is particularly affirmed by *Sahagun* (Lib VIII, cap. XIV, p. 303. Cap. XV, p. 304, and Cap. XXV, pp. 313 and 314), who, however, contradicts himself in regard to the position and rank of his "Judges." Thus (p. 303) he calls his officers of the "sala de la judicatura," "el rey, los señores, cónsules, oidores, principales nobles" as distinguished from those of the "audiencia de la causas civiles," whom he designates as "los senadores y los ancianos," thus intimating, if not asserting, that the former were superior to the latter in rank and power. The hall wherein the former met, is called "tlacxitlan," the latter "teccalli." I shall return to these terms again. He further asserts (p. 314), speaking of the former: "Estos tales eran los mayores jueces, que ellos llamaban tecutlatoques," and establishes them as a court of appeal for the lower court. Now (Cap. XXX, p. 318) he says: "juntábanse los senadores que llamaban tecutlatoques . . ." Consequently, he tacitly admits that the "senadores" who, according to him, composed the "lower" court were also the *equals* of those of the higher, and all belonged to the same class of officers. Finally, his picture of the duties of both bodies is rather obscure. He even (p. 314) might be construed so as to establish *three* courts. If we now examine the names given by him, we find that of the "lower" to be "house of chiefs," from "tecuhtli" and "calli," house. Indeed, *Molina* (II, p. 92) has "teccalli," "casa, o audiencia real." "Tlacxitlan," however, signifies (II, p. 120) "en lo baxo, o al pie de los arboles, o de cosa semejante." The proper derivation, however, is from "ni tlacxitoca" "to correct writings, or count over what has been already counted" (p. 120), which would indeed correspond to a "court of appeals." "To appeal" is "nitlacuepa;" "appeal," "tlacuepaliztli; occeccan neteihuiliztli," *Molina* (I, p. 12). It stands properly for the act of demurring, or of returning, folding, doubling up, and it is not likely to have been used by the natives to define an appeal in our sense of the word. Father Sahagun has probably introduced the word "tlacxitlan" himself. At all events, he is responsible for the notion of a superior body of judges, to whom a lower court, sitting in the same house, referred all cases of importance, contenting itself with taking testimony and despatching unimportant cases; while at the same time he tells us that the members of *both* groups *held the same office*, and were consequently equal and had the same title. This title we have found to be that of the members of the council, consequently the two groups formed but fractions of that body, co-ordinated and assisting each other, and not a higher and a lower branch of a tribal judiciary.

Father Sahagun and contemporary authors of the Franciscan school, whose writings have just now come to light in the "*Libro de Oro*," can easily be traced as the source of most of the later pictures of Mexican judicial customs as in the present instance. Thus his highest tribunal of *thirteen* "senadores" reappears in *Gomara* ("*Conquista*," p. 442,